

§ 1437.6

(c) CCC will adjust the NAP payment rate for crops that are produced with significant and variable expenses that are not incurred because the crop acreage was prevented from being planted or planted but not harvested.

(d) NAP payments will be determined by unit based on all the acreage and production of the crop and eligible prevented from being planted acreage of the crop.

(e) Each producer's NAP payment will be based on the producer's share of the eligible crop.

(f) Animal Unit Day value will be established by CCC on the basis of a 5 year national average corn price per pound, as determined by CCC, and the daily energy requirement of one beef cow, as determined by CCC.

[61 FR 69005, Dec. 31, 1996, as amended at 62 FR 53931, Oct. 17, 1997]

§ 1437.6 Area.

(a) For the purposes of this part, acreage affected by a natural disaster, or any adjustment thereto, will be included in the area recommended by the state FSA committee and submitted to CCC for approval, regardless of whether the commodity produced on the affected acreage suffered a loss.

(b) Except for eligible areas identified in paragraph (f) of this section, an approved area shall include at least five producers of crops on separate and distinct farms for which the area has been approved for NAP payments. Notwithstanding this provision, CCC may approve an area having fewer than five producers if the Executive Vice President, or a designee, determines that such area will suffer significant economic consequences as a result of the disaster.

(c) An area may be designated as follows:

(1) A county;

(2) Aggregated acreage that is at least 320,000 acres; or

(3) Aggregated acreage with not less than \$80 million average value for all crops produced annually.

(d) If the aggregated acreage affected by the natural disaster does not meet the minimum requirement specified in paragraph (c) (2) or (3) of this section, the aggregated acreage will be expanded by adding acres from around

7 CFR Ch. XIV (1-1-02 Edition)

the affected acreage, until the minimum requirement is met.

(e) The area may not be defined in any manner that intentionally includes or excludes producers or crops.

(f) Notwithstanding the provisions of paragraphs (a) and (c) of this section, for areas outside the 50 states of the United States, the area shall include 10 or more producers of the crop except CCC may approve an area outside the 50 United States having fewer than 10 producers of the crop for which the area is requested if the Executive Vice President determines that such area will suffer significant economic consequences as a result of the disaster.

§ 1437.7 Yield determinations.

(a) CCC will establish expected area yields or an equivalent measure in the event yield data are not available, for eligible crops for each county or area for which the NAP is available, using available information, which may include, but is not limited to, National Agricultural Statistics Service data, Cooperative State Research, Education, and Extension Service records, Federal Crop Insurance Corporation data, credible nongovernment studies, yields in similar areas, and reported approved yield data. For planted annual crops, such yields will be based on the acreage planted for harvest.

(b) CCC may make county yield adjustments taking into consideration different yield variations due to different farming practices in the county such as: irrigated, nonirrigated, organic, nonorganic, different types and varieties of a crop and intended use.

(c) In establishing expected area yields for eligible crops:

(1) If the approved area corresponds to a single county, the expected area yield will be the yield established by CCC for that county, including any adjustments permitted by this section;

(2) If the approved area encompasses portions of counties or more than one county, the expected area yield will be the weighted average of the yields established by CCC for those counties in the area, including any adjustments permitted by this section; and

(3) CCC may adjust expected area yields if: